

MAR 11 2014

TONY R. MOORE, CLERK  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA, LOUISIANAUNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

LE NHU LE, #36011-086

DOCKET NO. 13-CV-2604; SEC. P

VERSUS

JUDGE DRELL

U.S. BUREAU OF PRISONS

MAGISTRATE JUDGE KIRK

REPORT AND RECOMMENDATION

Before the Court is Petitioner's application for writ of habeas corpus pursuant to 28 U.S.C. §2241. Petitioner is an inmate in the custody of the Bureau of Prisons (BOP) incarcerated at the United States Penitentiary at Pollock, Louisiana. Petitioner claimed that he was wrongfully convicted of a disciplinary violation, and he sought the restoration of good time.

Federal Rule of Civil Procedure Rule (FRCP) 41(b) permits dismissal of claims "[i]f the plaintiff fails to prosecute or to comply with ... a court order...." The district court also has the inherent authority to dismiss an action sua sponte, without motion by a defendant. See Link v. Wabash R.R.Co., 370 U.S. 626, 630-31 (1962). "The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts." McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988).

Petitioner was ordered to submit an amended petition on or before January 29, 2013. [Doc. #11] Over a month has lapsed since the deadline, and Petitioner has still failed to submit the amended complaint as ordered.

**THEREFORE, IT IS RECOMMENDED** that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE** in accordance with FRCP 41(b) for his failure to comply with the Court's order to amend his petition.

***Objections***

Under the provisions of 28 U.S.C. §636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the clerk of court. No other briefs or responses (such as supplemental objections, reply briefs, etc.) may be filed. Providing a courtesy copy of the objection to the magistrate judge is neither required nor encouraged. Timely objections will be considered by the district judge before he makes his final ruling.

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.**

**THUS DONE AND SIGNED** at Alexandria, Louisiana, this 21 day  
of March, 2014.

  
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**JAMES D. KIRK**  
**UNITED STATES MAGISTRATE JUDGE**